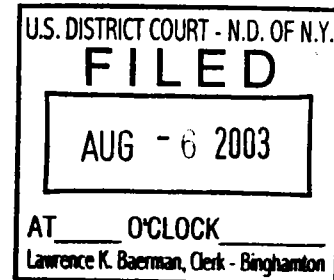


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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

**UNITED STATES OF AMERICA**

**v.**

**ADAM WEITSMAN,**

**Defendant.**

**INDICTMENT**

**Criminal No. 03-<sup>03</sup>01-CR-317 (TJM)**  
**(TJM)**

**VIO: 18 U.S.C. § 1344(1) (1 Count)**  
**18 U.S.C. § 1957 (85 Counts)**  
**18 U.S.C. § 1014 (1 Count)**

**THE GRAND JURY CHARGES:**

**INTRODUCTION**

**1. At all times material to this Indictment:**

(a) BSB Bank & Trust ("BSB"), located at 58-68 Main Street, Binghamton, New York, was a financial institution the deposits of which were insured by the Federal Deposit Insurance Corporation.

(b) Community Bank N.A. ("CBNA"), which maintained a branch office located at 50 West Main Street, Owego, New York, was a financial institution the deposits of which were insured by

the Federal Deposit Insurance Corporation.

(c) Defendant Adam Weitsman was an owner and operator of Upstate Shredding LLC, a metal recycling business located at 1 Recycle Drive, Owego, New York.

(d) Defendant Adam Weitsman was an operator of Ben Weitsman & Son Inc., a scrap metal salvage business located at 15 West Main Street, Owego, New York.

(e) Defendant Adam Weitsman was an owner and operator of Pro Gas Welding Supply Inc., a propane gas welding supply business located at 2801 Old Vestal Road, Vestal, New York.

(f) Defendant Adam Weitsman maintained and exercised control over the following business checking accounts at BSB Bank & Trust and Community Bank N.A.:

<u>BANK</u>	<u>NAME OF ACCOUNT</u>	<u>ACCOUNT NUMBER</u>
BSB Bank & Trust	Upstate Shredding	340070745
BSB Bank & Trust	Pro Gas Welding & Supply	340070813
Community Bank N.A.	Ben Weitsman & Son	616003731

(g) Defendant Adam Weitsman maintained and exercised control over the following personal checking accounts at BSB Bank & Trust and Community Bank N.A.:

<u>BANK</u>	<u>NAME OF ACCOUNT</u>	<u>ACCOUNT NUMBER</u>
BSB Bank & Trust	Adam Weitsman	361281348
Community Bank N.A.	Adam Weitsman Real Estate	616004994

(h) Defendant Adam Weitsman conducted and caused to be conducted withdrawal/deposit transactions on the accounts listed in subparagraphs (f) and (g).

(i) Defendant Adam Weitsman was aware of the non-existence of legitimate funds to cover the withdrawal/deposit transactions on the accounts listed in subparagraphs (f) and (g).

(j) Defendant Adam Weitsman maintained and controlled investment account #431-066072 at the investment firm of Morgan Stanley Dean Witter, which operates a branch office at the Metrocenter, 49 Court Street, Binghamton, New York.

**THE GRAND JURY FURTHER CHARGES:**

**COUNT 1**

2. The introduction set forth in paragraph 1 is incorporated and realleged as though fully set forth in this Count.

3. Between in or about June of 1998 and continuing through on or about August 12, 1999, in the Northern District of New York, the defendant,

**Adam Weitsman,**

did knowingly execute and attempt to execute a scheme and artifice to defraud BSB Bank & Trust, and Community Bank N.A., to wit: the defendant engaged in unlawful conduct commonly known as “check kiting” by creating fictitious, artificially inflated balances in commercial business checking accounts at the above-named federally insured financial institutions, which caused the banks to honor checks drawn against accounts with insufficient funds.

**The Scheme and Artifice to Defraud**

4. A check kite occurs when an individual makes a series of cross-deposits of insufficient funds checks between two or more accounts, creating an artificial impression to the bank that a stream of legitimate funds are being deposited. This apparent stream of legitimate funds undermines the bank’s expectation that the deposited funds are legitimate, thereby tricking the bank into releasing funds supported by artificially inflated balances.

5. It was part of the scheme and artifice to defraud that during the time period between in or about June of 1998 through on or about August 12, 1999, defendant Adam Weitsman caused approximately 3,800 checks to be cross-deposited between the Upstate Shredding LLC, Ben Weitsman & Son Inc., and Pro Gas Welding Supply Inc. business checking accounts. When these checks were cross-deposited between the Upstate Shredding LLC, Ben Weitsman & Son Inc., and Pro Gas Welding Supply Inc. business checking accounts, defendant Adam Weitsman knew there were insufficient legitimate funds available to properly cover the checks when they were deposited and

later presented for payment. The cross-deposits were conducted by Weitsman in such a manner, and at such times, so as to artificially and fraudulently inflate the numerical balances in the Upstate Shredding LLC, Ben Weitsman & Son Inc., and Pro Gas Welding Supply Inc. business checking accounts, to disguise the actual balance in the accounts, to create an artificial impression that a stream of legitimate funds were being deposited into the accounts, and to trick the banks into honoring checks drawn against accounts with insufficient funds. The total amount of checks written during the defendant's scheme exceeded one billion dollars, which caused the actual balances in the accounts to be concealed on a daily basis. The daily risk of loss to the banks at times exceeded \$7 million dollars, and caused an actual loss to Community Bank N.A. of approximately \$2 million dollars.

6. It was further part of the scheme and artifice to defraud that the defendant, relying upon the artificially and fraudulently inflated numerical balances created in the business checking accounts of Upstate Shredding LLC at BSB Bank & Trust and Ben Weitsman & Son Inc. at Community Bank N.A., withdrew and caused to be withdrawn funds from these accounts and deposited these funds into the Adam Weitsman personal checking account located at BSB Bank & Trust, and into the Adam Weitsman Real Estate account located at Community Bank N.A.

7. It was further part of the scheme and artifice to defraud that the defendant used fraudulently obtained funds by means of his check kiting scheme for his own personal benefit.

8. The defendant used approximately \$13 million of the fraudulently and artificially inflated funds obtained by means of his check kiting scheme to make investments in the stock market through the defendant's investment account at Morgan Stanley Dean Witter. The defendant, by means of the approximately \$13 million fraudulently obtained through his check kiting scheme, personally gained over \$7 million in net profit from investments in the stock market.

**All in violation of Title 18, United States Code, Section 1344(1).**

**THE GRAND JURY FURTHER CHARGES:****COUNTS 2 through 86**

On or about the following dates, in the Northern District of New York, the defendant,

**Adam Weitsman,**

did knowingly engage or attempt to engage in monetary transactions by, through, and to financial institutions which were federally insured, affecting interstate or foreign commerce, in criminally derived property of value greater than \$10,000, that is, the withdrawal, transfer and exchange of U.S. funds and currency from the financial institutions [BSB Bank & Trust ("BSB") and Community Bank N.A. ("CBNA")] and corresponding accounts [Adam Weitsman personal checking account ("AW"), Adam Weitsman Real Estate Account ("AWRE"), Ben Weitsman & Son ("BWS") and Upstate Shredding ("UPS")] identified below, and in the amounts of U.S. funds and currency identified below, such property having been derived from a specified unlawful activity, that is bank fraud, in violation of Title 18, United States Code, Section 1344(1), and as set forth under Count 1 of the Indictment.

<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
2	10/02/98	CBNA	AWRE	1418	\$737,000.00	Dean Witter
3	10/23/98	CBNA	AWRE	1441	750,035.58	Dean Witter
4	11/04/98	CBNA	AWRE	1458	336,947.00	Dean Witter
5	11/19/98	CBNA	AWRE	1463	742,951.00	Dean Witter
6	11/25/98	CBNA	AWRE	1471	542,635.00	Dean Witter
7	11/25/98	CBNA	AWRE	1472	601,233.00	Dean Witter
8	11/25/98	CBNA	AWRE	1473	438,832.00	Dean Witter
9	12/03/98	CBNA	AWRE	1479	161,080.22	Dean Witter

<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
10	12/14/98	CBNA	AWRE	1489	\$121,349.00	Dean Witter
11	01/06/99	CBNA	AWRE	1511	3,212,943.00	Dean Witter
12	01/07/99	CBNA	AWRE	1516	162,911.00	Dean Witter
13	03/15/99	CBNA	AWRE	1595	226,511.00	Dean Witter
14	03/30/99	CBNA	AWRE	1608	556,130.00	Dean Witter
15	04/15/99	CBNA	AWRE	1628	1,930,627.00	Dean Witter
16	04/27/99	BSB	AW	12	1,135,574.00	Dean Witter
17	05/03/99	BSB	AW	26	115,287.00	Dean Witter
18	05/04/99	BSB	AW	28	167,424.00	Dean Witter
19	05/05/99	BSB	AW	29	67,315.00	Dean Witter
20	05/10/99	BSB	AW	33	128,659.00	Dean Witter
21	05/10/99	BSB	AW	34	114,118.00	Dean Witter
22	05/19/99	BSB	AW	303	26,336.00	Dean Witter
23	05/20/99	BSB	AW	309	92,404.00	Dean Witter
24	05/26/99	BSB	AW	314	76,736.90	Dean Witter
25	05/26/99	BSB	AW	322	24,919.00	Dean Witter
26	05/28/99	BSB	AW	324	19,000.00	Dean Witter
27	06/01/99	BSB	AW	326	161,186.00	Dean Witter
28	06/03/99	BSB	AW	329	49,100.00	Dean Witter
29	07/22/99	BSB	AW	372	40,688.00	Dean Witter

<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
30	07/29/99	BSB	AW	388	\$49,982.54	Dean Witter
31	08/04/99	BSB	AW	399	91,136.10	Dean Witter
32	08/05/99	BSB	AW	400	32,000.00	Dean Witter
33	08/10/99	CBNA	AW	1641	334,747.21	Dean Witter
34	10/26/98	BSB	UPS	2220	12,000.00	Get Real Surfaces
35	01/05/99	BSB	UPS	2763	13,762.50	Good Earth Landscaping
36	09/14/98	CBNA	AWRE	1396	17,929.17	Ross Carter
37	11/18/98	CBNA	AWRE	1461	11,431.73	Ross Carter
38	06/09/99	BSB	AW	330	18,164.16	Ross Carter
39	02/18/99	CBNA	AWRE	1555	123,000.00	Stuart J. Stein Esq.
40	04/29/99	BSB	AW	Bank Check	607,037.83	Cary Loring
41	04/29/99	BSB	AW	Bank Check	18,188.00	Electronic Land Services Inc.
42	04/29/99	BSB	AW	Bank Check	413,862.17	Home Savings of America FSB
43	04/29/99	BSB	AW	Bank Check	12,300.00	Riverbank South Owners Corp
44	04/29/99	BSB	AW	Bank Check	73,800.00	Sopher Realty
45	06/24/99	BSB	AW	343	68,500.00	Christie's

<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
46	07/12/99	BSB	AW	360	\$51,750.00	Christie's
47	03/11/99	CBNA	AWRE	1593	14,835.00	Acoustic Images
48	02/01/99	CBNA	AWRE	1544	13,000.00	AdKen Development
49	02/03/99	CBNA	BWS	18710	29,219.60	AdKen Development
50	03/10/99	CBNA	AWRE	1591	27,830.08	AdKen Development
51	04/05/99	CBNA	AWRE	1616	18,500.00	AdKen Development
52	06/18/99	BSB	AW	348	15,660.00	AdKen Development
53	08/28/98	CBNA	AWRE	1383	10,723.02	American Express
54	11/30/98	CBNA	AWRE	1470	13,677.19	American Express
55	12/30/98	CBNA	AWRE	1498	41,380.24	American Express
56	02/01/99	CBNA	AWRE	1542	19,368.36	American Express
57	04/05/99	CBNA	AWRE	1615	17,338.26	American Express
58	07/12/99	BSB	AW	361	18,619.65	Art Net Worldwide Corporation



<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
59	09/14/98	CBNA	BWS	15622	\$13,000.00	Binghamton Artco
60	10/30/98	CBNA	BWS	16597	10,600.00	Binghamton Artco
61	01/27/99	CBNA	BWS	18585	19,500.00	Binghamton Artco
62	10/13/98	CBNA	BWS	16274	16,680.00	Cash
63	10/20/98	CBNA	BWS	16437	13,380.00	Cash
64	05/11/99	CBNA	AWRE	1633	18,487.15	Ithaca Recreation Sports
65	10/13/98	CBNA	AWRE	1425	20,000.00	Ken Howe
66	10/14/98	CBNA	AWRE	1429	32,160.00	Ken Howe
67	04/21/99	CBNA	AWRE	1629	132,566.00	NYS Income Tax
68	08/11/98	CBNA	BWS	14986	20,000.00	Owego Fairgrounds
69	09/02/98	CBNA	BWS	15410	38,000.00	Owego Fairgrounds
70	09/11/98	CBNA	BWS	15544	21,500.00	Owego Fairgrounds
71	10/01/98	CBNA	BWS	16006	38,750.00	Owego Fairgrounds
72	10/07/98	CBNA	BWS	16109	737,000.00	Owego Fairgrounds
73	10/07/98	CBNA	BWS	16115	51,000.00	Owego Fairgrounds

<u>Count</u>	<u>Date Check Cleared</u>	<u>Institution</u>	<u>Account Name</u>	<u>Check No.</u>	<u>Amount</u>	<u>Payee</u>
74	10/13/98	CBNA	BWS	16195	\$25,500.00	Owego Fairgrounds
75	11/10/98	CBNA	BWS	16828	20,000.00	Owego Fairgrounds
76	11/24/98	CBNA	BWS	17113	28,000.00	Owego Fairgrounds
77	12/09/98	CBNA	BWS	17509	21,000.00	Owego Fairgrounds
78	01/08/99	CBNA	BWS	18219	17,000.00	Owego Fairgrounds
79	01/12/99	CBNA	BWS	18260	32,000.00	Owego Fairgrounds
80	02/17/99	CBNA	BWS	18945	41,000.00	Owego Fairgrounds
81	03/18/99	CBNA	BWS	19506	26,000.00	Owego Fairgrounds
82	04/19/99	CBNA	BWS	20070	14,000.00	Owego Fairgrounds
83	03/05/99	CBNA	AWRE	1580	13,000.00	Pace Prints
84	06/30/99	CBNA	BWS	21399	19,000.00	Susquehanna Development
85	02/18/99	CBNA	AWRE	1563	17,500.00	The American Folk Art Gallery
86	04/23/99	CBNA	AWRE	1631	705,848.00	United States Treasury

All in violation of Title 18, United States Code, Section 1957.

**THE GRAND JURY FURTHER CHARGES:**

**COUNT 87**

On or about September 23, 1999, in the Northern District of New York, the defendant,

**Adam Weitsman,**

knowingly made a false statement for the purpose of influencing the action of BSB Bank & Trust, a financial institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with the renewal of an \$800,000 bridge loan first provided to the defendant by BSB Bank & Trust on or about August 4, 1999. In particular, BSB Bank & Trust received a letter of commitment indicating that the defendant was approved for an \$800,000 Chase Home Equity Line of Credit by Chase Manhattan Bank. Defendant stated to BSB Bank & Trust that once the \$800,000 Chase Home Equity Line of Credit closed, it would be used to pay off the bridge loan in full. As a result, the term of the original \$800,000 bridge loan was limited to the period of time until the defendant closed on the Chase Home Equity Line of Credit. However, the defendant applied for a renewal of the bridge loan on September 23, 1999 and falsely stated to BSB Bank & Trust that he had not obtained an \$800,000 Chase Bank Home Equity Line of Credit when, in truth and fact, the defendant received the \$800,000 Chase Home Equity Line of Credit on or about August 20, 1999.

**All in violation of Title 18, United States Code, Section 1014.**

**FORFEITURE ALLEGATION**

As a result of committing bank fraud in violation of Title 18, United States Code, Section 1344(1), as alleged in Count 1 of this Indictment, the defendant, **Adam Weitsman**, shall forfeit to the United States pursuant to 18 U.S.C. § 982, all property, real and personal, involved in such offense or any property traceable to such property, including, but not limited to, the following:

**A. MONEY JUDGMENT**

A sum of money equal to \$7,291,040.66 in United States currency, representing the amount of proceeds obtained as a result of the bank fraud offense.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:


- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States pursuant to 21 U.S.C. § 853(p), incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeiture money judgment.

**All in violation of Title 18, United States Code, Section 982.**

**A TRUE BILL**

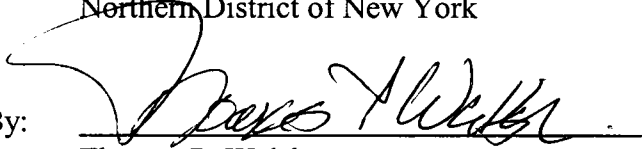
Dated: August 6th, 2003

  
FOREPERSON OF THE GRAND JURY

GLENN T. SUDDABY  
United States Attorney  
Northern District of New York

Dated: August 6th, 2003

By:

  
Thomas P. Walsh  
Assistant U.S. Attorney  
Bar Roll No. 102777